

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,                     )  
   )  
                  Plaintiff,                         )  
   )  
                  v.                                 ) No. 4:11CR057 RWS NAB  
   )  
JOSE DIAZ,   )  
   )  
                  Defendant.                        )

**ORDER AND SPEEDY TRIAL FINDING**

This matter is before the Court on Defendant's Motion to Withdraw the Motion to Waive Pretrial Motions and Proceed with the Evidentiary Hearing [[Doc. #711](#)] filed on January 20, 2012. In support of the Motion Defendant stated that:

1. The Defendant stated that he does not want to withdraw his previously filed Motions and requests a hearing on his previously filed Motions.
2. The Government will be calling witnesses from the State of Alabama to testify on its behalf and as such Counsel consents to a continuance of the evidentiary hearing set for January 23, 2012.

Defendant appeared in court on January 23, 2012 and made an oral motion to continue the evidentiary hearing.

For good cause shown,

**IT IS HEREBY ORDERED** that Defendant's Motion to Withdraw the Motion to Waive Pretrial Motions and Proceed with the Evidentiary Hearing [[Doc. #711](#)] is **GRANTED**. The oral motion for continuance is also **GRANTED**. The evidentiary hearing previously scheduled for January 23, 2012 shall be continued until **February 8, 2012** at **2:00 p.m.**

**Speedy Trial Finding:** For the reasons set out in Defendant's motions, the Court finds that to deny Defendant's request for such additional time would deny counsel for Defendant the reasonable time necessary for effective investigation and preparation of pretrial motions, taking into account the exercise of due diligence, and that the ends of justice served by granting Defendant's request for additional time outweigh the best interest of the public and Defendant in a speedy trial, and therefore, the time granted to Defendant to investigate and properly prepare for the evidentiary hearing, is excluded from computation of Defendant's right to a speedy trial pursuant to 18 U.S.C. §§ 3161(c)(1) and 3161(h)(7).

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/s/ Nannette A. Baker  
NANNETTE A. BAKER  
UNITED STATES MAGISTRATE JUDGE

Dated this 23<sup>rd</sup> day of January, 2012.